

## § 2.1311

## 10 CFR Ch. I (1–1–03 Edition)

(c) Specify the schedule for the filing of written testimony, statements of position, proposed questions for the Presiding Officer to consider for submission to the other parties, and rebuttal testimony, consistent with the schedule provisions of § 2.1321.

(d) State any other instructions the Commission deems appropriate.

### § 2.1311 Conditions in a notice or order.

(a) A notice or order granting a hearing or permitting intervention shall—

(1) Restrict irrelevant or duplicative testimony; and

(2) Require common interests to be represented by a single participant.

(b) If a participant's interests do not extend to all the issues in the hearing, the notice or order may limit her/his participation accordingly.

### § 2.1312 Authority of the Secretary.

The Secretary or the Assistant Secretary may rule on procedural matters relating to proceedings conducted by the Commission itself under this subpart to the same extent they can do so under § 2.772 for proceedings under subpart G.

### § 2.1313 Filing and service.

(a) Hearing requests, intervention petitions, answers, replies and accompanying documents must be served as described in paragraph (b) of this section by delivery, facsimile transmission, e-mail or other means that will ensure receipt by close of business on the due date for filing. Any participant filing hearing requests, intervention petitions, replies and accompanying documents should include information on mail and delivery addresses, e-mail addresses, and facsimile numbers in their initial filings which may be used by the Commission, Presiding Officer and other parties for serving documents on the participant.

(b) All filings must be served upon the applicant; the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; and participants if any. If service to the Secretary is by delivery or by mail the filings should be ad-

dressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff. E-mail filings may be sent to the Secretary at the following e-mail address: SECY@NRC.GOV. Facsimile transmission filings may be filed with the Secretary using the following number: 301-415-1101.

(c) Service is completed by:

(1) Delivering the paper to the person; or leaving it in her or his office with someone in charge; or, if there is no one in charge, leaving it in a conspicuous place in the office; or, if the recipient has no office or it is closed, leaving it at her or his usual place of residence with some occupant of suitable age and discretion;

(2) Depositing it in the United States mail, properly stamped and addressed; or

(3) Any other manner authorized by law, when service cannot be made as provided in paragraphs (c) (1) or (2) of this section.

(4) For facsimile transmission, sending copies to the facsimile machine of the person being served;

(5) For e-mail, sending the filing in electronic form attached to an e-mail message directed to the person being served.

(d) Proof of service, stating the name and address of the person served and the manner and date of service, shall be shown, and may be made by—

(1) Written acknowledgment of the person served or an authorized representative; or

(2) The certificate or affidavit of the person making the service.

(e) The Commission may make special provisions for service when circumstances warrant.

### § 2.1314 Computation of time.

(a) In computing time, the first day of a designated time period is not included and the last day is included. If the last day is a Saturday, Sunday or legal holiday at the place where the required action is to be accomplished, the time period will end on the next day which is not a Saturday, Sunday or legal holiday.

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(b) In time periods of 7 days or less, Saturdays, Sundays and holidays are not counted.

(c) Whenever an action is required within a prescribed period following service of a paper, 3 days shall be added to the prescribed period if service is by regular mail.

### **§2.1315 Generic determination regarding license amendments to reflect transfers.**

(a) Unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility or the license of an Independent Spent Fuel Storage Installation which does no more than conform the license to reflect the transfer action, involves respectively, “no significant hazards consideration” or “no generic issue as to whether the health and safety of the public will be significantly affected.”

(b) Where administrative license amendments are necessary to reflect an approved transfer, such amendments will be included in the order that approves the transfer. Any challenge to the administrative license amendment is limited to the question of whether the license amendment accurately reflects the approved transfer.

### **§2.1316 Authority and role of NRC staff.**

(a) During the pendency of any hearing under this subpart, consistent with the NRC staff's findings in its Safety Evaluation Report (SER), the staff is expected to promptly issue approval or denial of license transfer requests. Notice of such action shall be promptly transmitted to the Presiding Officer and parties to the proceeding.

(b) Except as otherwise directed in accordance with §2.1309(a)(7), the NRC staff is not required to be a party to proceedings under this subpart but will offer into evidence its SER associated with the transfer application and provide one or more sponsoring witnesses.

(c) If the NRC staff desires to participate as a party, the staff shall notify the Presiding Officer and the parties and shall thereupon be deemed to be a party with all the rights and responsibilities of a party.

### **§2.1317 Hearing docket.**

For each hearing, the Secretary will maintain a docket which will include the hearing transcript, exhibits and all papers filed or issued in connection with the hearing. This file will be made available to all parties in accordance with the provisions of §2.1303 and will constitute the only discovery in proceedings under this subpart.

### **§2.1318 Acceptance of hearing documents.**

(a) Each document filed or issued must be clearly legible and bear the docket number, license application number, and hearing title.

(b) Each document shall be filed in one original and signed by the participant or its authorized representative, with the address and date of signature indicated. The signature is a representation that the document is submitted with full authority, the person signing knows its contents and that, to the best of their knowledge, the statements made in it are true.

(c) A document not meeting the requirements of this section may be returned with an explanation for non-acceptance and, if so, will not be docketed.

### **§2.1319 Presiding Officer.**

(a) The Commission will ordinarily be the Presiding Officer at a hearing under this part. However, the Commission may provide in a hearing notice that one or more Commissioners, or any other person permitted by law, will preside.

(b) A participant may submit a written motion for the disqualification of any person presiding. The motion shall be supported by an affidavit setting forth the alleged grounds for disqualification. If the Presiding Officer does not grant the motion or the person does not disqualify himself and the Presiding Officer or such other person is not the Commission or a Commissioner, the Commission will decide the matter.

(c) If any person presiding deems himself or herself disqualified, he or she shall withdraw by notice on the record after notifying the Commission.